

petition requesting that EPA object to the proposed title V operating permit for Onyx Environmental Services. The Sierra Club and American Bottom Conservancy alleged that the proposed permit (1) violates EPA's commitments and obligations to address environmental justice issues; (2) lacks a compliance schedule and certification of compliance; (3) does not address modifications Onyx allegedly took that triggered new source review requirements; (4) is based on an eight-year old application; (5) lacks practically enforceable conditions; (6) contains a permit shield that broadly insulates it from ongoing and recent violations; (7) fails to include conditions that meet the legal requirements for monitoring; (8) does not contain a statement of basis; (9) does not require prompt reporting of violations; and (10) fails to establish annual mercury and lead limits.

On February 1, 2006, the Administrator signed an order partially granting and partially denying the petition. The order explains the reasons behind EPA's conclusion that the IEPA must: (1) Address the significant comments concerning the possible need for a compliance schedule in the proposed permit; (2) require Onyx Environmental Services to submit a current compliance certification; (3) address comments concerning modifications made at the Onyx facility and the potential applicability of new source review requirements; (4) require Onyx Environmental Services to submit an updated application that reflects all applicable requirements for the source; (5) make clear either in the permit or statement of basis what constitutes "normal" operating conditions; (6) amend the permit to limit Onyx Environmental Service's election to regulatory requirements applicable to hazardous waste incinerators; (7) define the terms "container" and "containerized solids," or explain in the statement of basis where the terms are defined; (8) provide information on where the applicable specifications pertaining to "manufacturer's specifications" can be located; (9) provide a statement of basis that complies with the requirements of EPA regulations and post its statement of basis on a Web site, or make available to the public on the Web site a notice telling the public where it can obtain the statement of basis; and (10) explain how a thirty day reporting requirement for all deviations is prompt or require a shorter reporting period for deviations as is provided for in 40 CFR part 71. The order also explains the reasons for

denying Sierra Club and American Bottom Conservancy's remaining claims.

Pursuant to sections 505(b)(2) and 307 of the Act, Petitioners have 60 days from the date that this notice appears in the **Federal Register** to petition the United States Court of Appeals for the Seventh Circuit for review of the portions of the petition which EPA denied.

Dated: March 2, 2006.

Bharat Mathur,

Acting Regional Administrator, Region 5.

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ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OAR-2006-0094; FRL-8045-6]

Proposed Approval of Central Characterization Project's Transuranic Waste Characterization Program at the Savannah River Site

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability; opening of public comment period.

SUMMARY: The Environmental Protection Agency ("EPA" or "we") is announcing the availability of, and soliciting public comments for 45 days on, the proposed approval of the waste characterization program implemented by the Central Characterization Project ("CCP") to characterize transuranic ("TRU") radioactive waste at the Savannah River Site (SRS) proposed for disposal at the Waste Isolation Pilot Plant ("WIPP"). In accordance with the WIPP Compliance Criteria, EPA evaluated the CCP's characterization of TRU debris waste and soils/gravel from SRS during an inspection conducted October 31–November 3, 2005. Using the systems and processes developed as part of the Department of Energy's ("DOE's") Carlsbad Field Office ("CBFO") CCP, EPA verified whether DOE could adequately characterize TRU waste consistent with the Compliance Criteria. The results of EPA's evaluation of the SRS CCP program and the proposed approval are described in EPA's inspection report, which is available for review in the public dockets listed in **ADDRESSES**. We will consider public comments received on or before the due date mentioned in **DATES**.

This notice summarizes the waste characterization processes EPA evaluated, the "tier" EPA assigned to each waste characterization process component, and the TRU waste categories proposed for approval. As

required by the 40 CFR 194.8 changes promulgated in July 2004, at the end of a 45-day comment period EPA will evaluate public comments received, finalize the report responding to the relevant public comments, and issue the final report and an approval letter to DOE's Carlsbad Field Office. Waste that is characterized by the SRS CCP is *not* eligible for disposal at WIPP until EPA formally grants its approval.

DATES: Comments must be received on or before May 1, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2006-0094, by one of the following methods:

- <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

- E-mail: to a-and-r-docket@epa.gov.

- Fax: 202-566-1741.

- Mail: Air and Radiation Docket and Information Center, Environmental Protection Agency, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

Instructions: Direct your comments to Attn: Docket ID No. EPA-HQ-OAR-2006-0094. The Agency's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information

about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically at <http://www.regulations.gov> or in hard copy at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202-566-1744, and the telephone number for the Air and Radiation Docket is 202-566-1742. These documents are also available for review in hard-copy form at the following three EPA WIPP informational docket locations in New Mexico: in Carlsbad at the Municipal Library, Hours: Monday–Thursday, 10 a.m.–9 p.m., Friday–Saturday, 10 a.m.–6 p.m., and Sunday, 1 p.m.–5 p.m., phone number: 505-885-0731; in Albuquerque at the Government Publications Department, Zimmerman Library, University of New Mexico, Hours: Vary by semester, phone number: 505-277-2003; and in Santa Fe at the New Mexico State Library, Hours: Monday–Friday, 9 a.m.–5 p.m., phone number: 505-476-9700. As provided in EPA's regulations at 40 CFR part 2, and in accordance with normal EPA docket procedures, if copies of any docket materials are requested, a reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Rajani Joglekar, Radiation Protection Division, Center for Federal Regulations, Mail Code 6608J, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460; telephone number: 202-343-9601; fax number: 202-343-2305; e-mail address: joglekar.rajani@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. What Should I Consider as I Prepare My Comments for EPA?

1. **Submitting CBI.** Do not submit this information to EPA through <http://www.regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI

information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. **Tips for Preparing Your Comments.** When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the comment period deadline identified.

II. Background

DOE is developing the WIPP near Carlsbad in southeastern New Mexico as a deep geologic repository for disposal of TRU radioactive waste. As defined by the WIPP Land Withdrawal Act (LWA) of 1992 (Pub. L. 102-579), as amended (Pub. L. 104-201), TRU waste consists of materials containing processes having atomic numbers greater than 92 (with half-lives greater than twenty years), in concentrations greater than 100 nanocuries of alpha-emitting TRU isotopes per gram of waste. Much of the existing TRU waste consists of items contaminated during the production of nuclear weapons, such as rags, equipment, tools, and sludges.

On May 13, 1998, EPA announced its final compliance certification decision to the Secretary of Energy (published May 18, 1998, 63 FR 27354). This

decision stated that the WIPP will comply with EPA's radioactive waste disposal regulations at 40 CFR part 191, subparts B and C.

The final WIPP certification decision includes conditions that (1) prohibit shipment of TRU waste for disposal at WIPP from any site other than the Los Alamos National Laboratories (LANL) until the EPA determines that the site has established and executed a quality assurance program, in accordance with §§ 194.22(a)(2)(i), 194.24(c)(3), and 194.24(c)(5) for waste characterization activities and assumptions (Condition 2 of Appendix A to 40 CFR part 194); and (2) (with the exception of specific, limited waste streams and equipment at LANL) prohibit shipment of TRU waste for disposal at WIPP (from LANL or any other site) until EPA has approved the procedures developed to comply with the waste characterization requirements of § 194.22(c)(4) (Condition 3 of Appendix A to 40 CFR part 194). The EPA's approval process for waste generator sites is described in § 194.8.

In July 2004, EPA promulgated changes to the "Criteria for the Certification and Recertification of the Waste Isolation Pilot Plant's Compliance with Disposal Regulations" (69 FR 42571-42583, July 16, 2004). These changes went into effect October 14, 2004, which modified the EPA approval of waste characterization ("WC") programs at DOE's TRU waste sites. These revisions provide equivalent or improved oversight and better prioritization of technical issues in EPA inspections to evaluate WC activities at DOE WIPP waste generator sites, and also offer more direct public input into the Agency's decisions about what waste can be disposed of at WIPP. They do not modify the technical approach that EPA has employed since the 1998 WIPP Certification Decision.

Condition 3 of the WIPP Certification Decision requires that EPA conduct independent inspections at DOE's waste generator/storage sites of their TRU waste characterization capabilities before approving their program and the waste for disposal at the WIPP. The revised inspection and approval process gives EPA greater (a) discretion in establishing technical priorities, (b) ability to accommodate variation in the site's waste characterization capabilities, and (c) flexibility in scheduling site WC inspections. The § 194.8 changes require that EPA conduct a baseline inspection at every previously approved TRU site (such as SRS CCP). EPA expects that within two years after the effective date of October 2004 most of the previously approved TRU sites (such as Hanford, Los Alamos

CCP, and Savannah River Site CCP) will undergo EPA baseline inspections. Following these inspections, the Agency will issue a new baseline compliance decision for these sites.

As part of the baseline inspection, EPA must evaluate each WC process component (equipment, procedures, and personnel training/experience) for its adequacy and appropriateness in characterizing TRU waste destined for the disposal at WIPP. During the inspection, the site demonstrates its capabilities to characterize TRU waste(s) and its ability to comply with the regulatory limits and tracking requirements under § 194.24. The baseline inspection can result in approval with limitations/conditions or may require follow-up inspection(s) before approval. The approval must specify what subsequent WC program changes or expansion should be reported to EPA. The Agency is required to assign Tier 1 ("T1") and Tier 2 ("T2") to the reportable changes depending on their potential impact on data quality. A T1 designation requires that the site must notify EPA of proposed changes to the approved components of an individual WC process (such as radioassay equipment or personnel), and EPA must also approve the change before it can be implemented. A WC element with a T2 designation allows the site to implement changes to the approved components of individual WC processes (such as visual examination procedures) but requires EPA notification. The Agency may choose to inspect the site to evaluate technical adequacy before approval. EPA inspections conducted to evaluate T1 or T2 changes are follow-up inspections under the authority of § 194.24(h). In addition to the follow-up inspections, if warranted, EPA may opt to conduct continued compliance inspections at TRU waste sites with a baseline approval under the authority of § 194.24(h).

The revisions to the site inspection and approval process outlined in § 194.8 require EPA to issue a **Federal Register** notice proposing the baseline compliance decision, docket the inspection report for public review, and seek public comment on the proposed decision for a period of 45 days. The report must describe the WC processes EPA inspected at the site, as well as their compliance with § 194.24 requirements.

III. Proposed Baseline Compliance Decision

From October 31–November 3, 2005, EPA performed a baseline inspection of TRU waste characterization activities of

the DOE's CCP staff at SRS (EPA Inspection No. EPA–SRS–CCP–10.05–8). This inspection is the second baseline inspection that EPA has performed under the § 194.8 regulatory changes promulgated in July 2004.

The CCP is a mobile characterization program that assists TRU waste generator sites with complex waste characterization activities. At some sites (such as Los Alamos National Laboratory and Savannah River Site) and small TRU waste generator sites (such as Argonne National Laboratory and Lawrence Livermore National Laboratory) the CCP has the sole responsibility to characterize contact-handled ("CH"), retrievably-stored TRU waste destined for the disposal at the WIPP.

The purpose of EPA's inspection was to verify that CCP is characterizing CH TRU retrievably-stored debris waste (S5000) and soils/gravel (S4000) from SRS properly and in compliance with the regulatory requirements at 40 CFR 194.24. EPA did not evaluate the characterization of solid waste (S3000) at this time and will inspect this at a later date. During the inspection, EPA also evaluated CCP's use of the WIPP Waste Information System ("WWIS") for tracking the contents of CH TRU waste containers destined for disposal at WIPP. This tracking ensures that the volume emplaced in the WIPP repository and characteristics of the emplaced wastes conform to the requirements of the WIPP LWA and the specific conditions of the WIPP Certification Decision.

During the inspection, EPA evaluated the adequacy, implementation, and effectiveness of SRS–CCP's waste characterization activities. The Agency's evaluation focused on the individual components—equipment, procedures, and personnel training/experience of the following waste characterization processes: Acceptable knowledge ("AK"), nondestructive assay ("NDA"), visual examination techniques ("VET"), visual examination/real-time radiography ("VE/RTR"), load management, and the WWIS. The overall program adequacy and effectiveness of SRS–CCP was based on the following DOE-provided upper-tier documents: (1) CCP–PO–001—Revision 11, 3/10/05—CCP Transuranic Waste Characterization Quality Assurance Project Plan and (2) CCP–PO–002—Revision 12, 3/10/05—CCP Transuranic Waste Certification Plan.

EPA evaluated the CCP-implemented waste characterization processes at SRS for specific CH TRU waste categories, as follows:

- Acceptable knowledge (AK) and load management for contact-handled ("CH") retrievably-stored and newly-generated TRU debris waste (S5000) and soil/gravel waste (S4000).

- Visual examination techniques ("VET") for CH newly-generated debris waste (S5000) and soil/gravel waste (S4000).

- Visual examination ("VE") as a quality control check of real-time radiography ("RTR") for CH retrievably-stored TRU debris waste (S5000) and soil/gravel waste (S4000).

- RTR for CH retrievably-stored TRU debris waste (S5000) and soil/gravel waste (S4000).

- Nondestructive assay ("NDA") and the WIPP Waste Information System ("WWIS") for CH retrievably-stored and newly-generated TRU debris waste (S5000) and soil/gravel waste (S4000).

Two NDA systems (Imaging Passive-Active Neutron/Gamma Energy Analysis ["IPAN/GEA"] system and the MCS IQ3 gamma system) were evaluated for characterizing debris (S5000) and soil/gravel (S4000) wastes.

In addition to reviewing individual components (namely, procedures, and equipment) of each of the WC processes (AK, NDA, VET, VE/RTR, load management, and the WWIS), the Agency interviewed and reviewed training records of personnel responsible for compiling data, analyzing waste contents, operating equipment, and preparing data for WWIS tracking. EPA also required radioassay replicate analysis on selected containers from the population of previously analyzed waste containers on the same system or instrument for the two different waste categories. The purpose of this replicate testing is to provide EPA with an independent means to verify that the radioassay equipment being assessed for approval can provide consistent, reproducible results for the determination of the quantity of 10 WIPP-tracked radionuclides (241Am, 137Cs, 238Pu, 239Pu, 240Pu, 242Pu, 90Sr, 233U, 234U, and 238U) as well as TRU alpha concentration. The results of the replicate analysis help EPA to determine whether:

- The instrument produces results consistent with the reported total measurement uncertainty ("TMU") by comparing the sample standard deviation for a number of replicate measurements taken over several hours or days to the reported TMU.

- The instrument provides reproducible results over longer periods of time, such as weeks or months, by comparing the results of the replicate

measurement(s) to the original reported values.

EPA's inspection team identified one finding and five concerns. The one finding and two of the concerns required a response from DOE. All concerns and findings are documented on EPA Inspection Issue Tracking Forms (see Attachments C.1 through C.6 of the baseline Inspection Report available in the EPA Docket). The Agency received responses to the one finding and two concerns which required responses and, upon further evaluation, concluded that the responses were adequate. As a result, there are no open issues resulting from this inspection.

EPA's inspection team determined that SRS-CCP's WC program activities were technically adequate. EPA is

proposing to approve the SRS-CCP WC program in the configuration observed during this inspection and described in this report and in the checklists in Attachment A. This proposed approval includes the following waste characterization activities:

- (1) The AK and load management process for CH retrievably-stored TRU debris and soil/gravel,
- (2) The IPAN and IQ3 NDA systems for assaying soil/gravel and debris waste,
- (3) VE as a QC check of the RTR process for retrievably-stored soil/gravel and debris waste,
- (4) The VET process for newly-generated debris and soil/gravel wastes,
- (5) The nondestructive examination process of RTR for retrievably-stored soil/gravel and debris wastes, and

(6) The WWIS process for tracking of waste contents of debris and soil/gravel wastes. As required by the new (194.8 revisions, EPA has assigned specific "tiers" to the different waste characterization processes. As seen from the table below, both T1 and T2 changes are reportable changes. A T1 change requires EPA approval prior to implementation of the change and may require EPA inspection to determine technical adequacy. A T2 change may be implemented prior to EPA approval; however, this type of change must be reported to EPA quarterly. Any changes to WC activities from the date of the baseline inspection must be reported to and, if applicable, approved by EPA, according to the following table:

PROPOSED TIERING OF TRU WC PROCESSES IMPLEMENTED BY SRS-CCP

[Based on October 31–November 3, 2005, Baseline Inspection]

WC process elements	SRS-CCP WC process specific T1 changes	SRS-CCP WC process specific T2 changes*	SRS-CCP general T2 changes*
AK including Load Management.	Any new waste category Changes to WWIS algorithms specific to load management.	WSPFs, including updates or additions to waste stream(s) within an approved waste category (see Section 8.1). Changes in load management status of approved waste stream(s).	Changes to site procedures requiring CBFO approvals and other changes as discussed in Section 8.1 of this report.
NDA	New equipment or physical modifications to approved equipment.**. Changes to approved calibration range for approved equipment (see Section 8.2).	Changes to software for approved equipment (see Section 8.2). Changes to operating range(s) upon CBFO approval.	Changes to site procedures requiring CBFO approvals and other changes as discussed in Section 8.2 of this report.
RTR	N/A	New equipment or changes to approved equipment.	Changes to site procedures requiring CBFO approvals and other changes as discussed in Section 8.3 of this report.
VE and VET	Changes in vendor performing VE and/or VET.	N/A	Changes to site procedures requiring CBFO approvals and other changes as discussed in Section 8.4 of this report.
WWIS	N/A	N/A	Changes to site procedures requiring CBFO approvals and other changes as discussed in Section 8.5 of this report.

* Upon receiving EPA approval, SRS-CCP will report all T2 changes to EPA every three months.

** Modifications to approved equipment include all changes with the potential to affect NDA data relative to waste isolation and exclude minor changes, such as the addition of safety-related equipment.

EPA will notify the public of the results of its evaluations of proposed T1 and T2 changes through the WIPP Website and by sending messages via the WIPP-NEWS e-mail listserv. All T1 changes must be submitted for approval before their implementation and will be evaluated by EPA. Upon approval, EPA will post the results of the evaluations via the WIPP Website and the WIPP-NEWS listserv, as described above. The Agency will post T2 changes approximately every three months beginning with the date of EPA's approval of the TRU WC program

implemented at SRS-CCP. EPA expects the first report of SRS-CCP's T2 changes approximately three months from the date of EPA's approval of the TRU WC program implemented at SRS-CCP.

The scope of the proposed site baseline compliance decision is based on EPA's inspection completed on November 3, 2005. The Agency will not approve any changes to the SRS-CCP program until this proposed baseline approval is finalized. Based on prior approvals, SRS-CCP is currently approved to dispose of debris waste (\$5000) at the WIPP. SRS-CCP is

permitted to continue WC and disposal of debris waste while EPA evaluates public comment to this proposed approval and establishes a final approval.

IV. Availability of the Baseline Inspection Report for Public Comment

EPA has placed the report discussing the results of EPA's inspection of the CCP at SRS in the public docket as described in **ADDRESSES**. In accordance with 40 CFR 194.8, EPA is providing the public 45 days to comment on these documents. The Agency requests comments on the tiering designations

and the proposed approval decision. EPA will accept public comment on this notice and supplemental information as described in Section 1.B. above. The EPA will not make a determination of compliance before the 45-day comment period ends. At the end of the public comment period, EPA will evaluate all relevant public comment and revise the inspection report as necessary. The Agency will then issue an approval letter and the final inspection report, both of which will be posted on the WIPP Web site. The letter of approval will allow CCP to use the approved TRU waste characterization processes to characterize TRU waste at SRS.

Information on the certification decision is filed in the official EPA Air Docket, Docket No. A-93-02 and is available for review in Washington, DC, and at the three EPA WIPP informational docket locations in New Mexico (as listed in **ADDRESSES**). The dockets in New Mexico contain only major items from the official Air Docket in Washington, DC, plus those documents added to the official Air Docket since the October 1992 enactment of the WIPP LWA.

Dated: March 9, 2006.

William L. Wehrum,
Acting Assistant Administrator for Air and Radiation.

[FR Doc. E6-3813 Filed 3-15-06; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL MARITIME COMMISSION

[Docket No. 06-04]

Revocation of Licenses for Failure To Comply With the Financial Responsibility Requirements of the Shipping Act of 1984; Order To Show Cause

Since enactment of the Shipping Act of 1984 ("1984 Act"), 46 U.S.C. app. §§ 1701-1721, section 19¹ of the statute set forth the licensing and bonding requirements applicable to ocean freight forwarders, while section 23 of the 1984 Act established separate bonding requirements for non-vessel-operating common carriers ("NVOCCs"). Effective May 1, 1999, the 1984 Act was modified and updated by the passage of the Ocean Shipping Reform Act of 1998 ("OSRA"), Public Law 105-258, 112 Stat. 1902. OSRA delineated a new category of regulated entities called an ocean transportation intermediary ("OTI"), defined to include both freight forwarders and NVOCCs. While continuing the statutory requirements of

the 1984 Act that all OTIs submit a surety bond as proof of financial responsibility, a revised section 19 for the first time required that NVOCCs operating in the United States be licensed by the Federal Maritime Commission ("Commission").

Concurrent with the effective date of OSRA, the Commission prescribed new regulations at 46 CFR Part 515 (*Licensing, Financial Responsibility Requirements, and General Duties for Ocean Transportation Intermediaries*), implementing those revisions to the 1984 Act with respect to OTI licensing and financial responsibility (64 FR 11156, March 8, 1999). The Commission's OTI regulations specify that each OTI must establish its financial responsibility by furnishing the Commission a surety bond, evidence of insurance or evidence of guaranty to provide coverage for damages, reparations or penalties arising from the OTI's transportation-related activities. See 46 CFR 515.22. In the case of surety bonds, the regulations specify that such bonds must be issued by a surety company found acceptable by the Secretary of the Treasury. 46 CFR 515.22(a).²

By notice issued June 23, 2003, the Department of Treasury terminated the Certificate of Authority issued to American Motorists Insurance Company, which had qualified that company as an acceptable surety on Federal bonds. Under the Treasury program, bonds that are continuous in nature remain valid and effective for the purposes issued, but may no longer be renewed. Commencing with the anniversary date of such termination, OTIs holding surety bonds issued by American Motorists Insurance Company were obligated to replace their OTI bond with a valid bond issued by a surety company currently certified by Treasury.

Contacts by Commission staff over an extended period have resulted in licensees voluntarily furnishing replacement evidence of financial responsibility with respect to all but 21 of the licensees previously covered by American Motorists Insurance Company bonds. In October and November 2005, the Commission contacted the licensees by phone and by formal letter, notifying each remaining licensee that continued failure to comply with bonding requirements placed them at risk of license revocation or other action to suspend such OTI's right to continue

operations in the U.S. trades. Following direct notice to the affected parties and an extended period to bring themselves into compliance, it appears that the 8 OTIs listed in the attached Schedule A no longer meet the requirements for demonstrating financial responsibility imposed by section 19 of the 1984 Act.

Now therefore, it is ordered that pursuant to section 11 of the Shipping Act of 1984, 46 U.S.C. app. 1710, the entities listed in Schedule A to this Order are directed to show cause why the Commission should not revoke their licenses for failure to comply with section 19 of the Shipping Act of 1984, 46 U.S.C. app. 1718, as amended, and 46 CFR 515.22(a).

It is further ordered that pursuant to section 11 of the Shipping Act of 1984, the entities listed in Schedule A to this Order are directed to show cause why the Commission should not order each of them to cease and desist from operating as an ocean transportation intermediary in the foreign trade of the United States, for failure to comply with section 19 of the Shipping Act of 1984, as amended, and 46 CFR Part 515;

It is further ordered that this proceeding is limited to the submission of affidavits of facts and memoranda of law;

It is further ordered that any person having an interest and desiring to intervene in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72. Such petition shall be accompanied by the petitioner's memorandum of law and affidavits of fact, if any, and shall be filed no later than the day fixed below;

It is further ordered that the entities listed in Schedule A to this Order are named as Respondents in this proceeding. Affidavits of fact and memoranda of law shall be filed by Respondents and any intervenors in support of Respondents no later than April 17, 2006;

It is further ordered that the Commission's Bureau of Enforcement be made a party to this proceeding;

It is further ordered that reply affidavits and memoranda of law shall be filed by the Bureau of Enforcement and any intervenors in opposition to Respondents no later than May 17, 2006;

It is further ordered that rebuttal affidavits and memoranda of law shall be filed by Respondents and intervenors in support no later than June 1, 2006;

It is further ordered that:

(a) Should any party believe that an evidentiary hearing is required, that party must submit a request for such

² The Department of Treasury maintains an extensive list of approved surety bonding companies, known as Circular 570. Circular 570 is published on Treasury's Web site at: <http://www.fms.treas.gov/c570/index.html>.

¹ 46 U.S.C. app. 1718 (1984).